

Remarks/Arguments:

Claims 1-12 are pending in this application. Group I, Claims 1 and 6-12 (in part), as well as Claim 4, is rejected under 35 U.S.C. 102(e). Group II, Claims 1 and 6-12 (in part), as well as Claims 2-3 and 5, is withdrawn as being drawn to non-elected subject matter.

In response to the official action, claim 1 has been amended and claims 2,3 and 5 cancelled.

Applicants refer to the conversation between Examiner Barker and the undersigned on June 2nd, 2006 where Applicants drew the Examiners attention to the substitute specification filed with the 371 application papers. The substitute specification had 9 claims and several rejections in the present official action had already been addressed by the substitute specification. Applicants apologize to the Examiner for not drawing the Examiners attention to the substitute specification when responding to the restriction requirement. As agreed with the Examiner, Applicants are addressing remaining issues from the official action in this response and where appropriate pointing out where a response is not necessary in view of the substitute specification.

Information Disclosure Statement

The Examiner states that the information disclosure statement (IDS) submitted on March 24, 2005 was correctly filed and is in compliance with the provisions of 37 CFR 1.97.

Applicant's note that the Examiner has indicated as "not submitted" reference CJ on the initialed PTO-1449 attached to the office action. Applicants apologize to the Examiner and enclose the reference, a further SB08 and the fee for its consideration.

Applicants further draw the Examiners attention to the supplemental IDS filed 04/10/2006 and respectfully request consideration of those documents.

Priority

The Examiner states this application, filed September 3, 2004, is a 371 of PCT/GB03/00924, filed March 4, 2003, and claims foreign priority to UK Application No. 0205175.3, filed March 6, 2002.

Applicants note the acknowledgement of our claim to priority.

Response to Restriction

The Examiner states that the restriction requirement is deemed proper and is made final, and Claims 1 and 6-12 (in part), as well as Claims 2-3 and 5 are withdrawn from further consideration.

Applicants have amended the claims to take into account the restriction requirement. Claims 2, 3 and 5 have been cancelled and claim 1 has been amended.

Claim Rejections - 35 USC § 102

Claims 1 and 6-12 (in part), as well as Claim 4 are rejected under 35 U.S.C. 102(e) as being anticipated by WIPO Publication No. 2002034718 A1 (hereinafter "Horvath, et al."), published May 2, 2002, filed October 15, 2001, and having priority to October 24, 2000. Specifically, the Examiner states, Horvath, et al. discloses the compound 6-hydroxy-1H-indole-carboxylic acid 1,2-diphenylethylamide [Example 94 at p. 46; Registry Number 42013685-2], which anticipates Applicant's Group I, wherein B is phenyl ; R¹ is H ; R⁴ is hydroxy; and R¹⁴ is H.

Applicants have amended claim 1 such that R⁴ is hydrogen or halo only. Basis for this amendment is to be found at paragraph [0112] of the published US patent application. Applicants believe that this rejection is no longer relevant to the claims on file.

Claim Rejections - 35 USC § 112

Claims 10-11 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101.

These claims do not appear in the substitute specification. Applicants therefore believe that they have overcome this rejection.

Objections

Claims 7-9 are objected to as being substantial duplicates of Claim 1.

These claims do not appear in the substitute specification. Applicants therefore believe that they have overcome this rejection.

Group 11, Claims 1 and 6-12 (in part), as well as Claims 2-3 and 5, is objected to for being drawn to nonelected subject matter.

As stated above, Applicants have amended the claims to remove non-elected subject matter.

The above amendments have been made without prejudice to Applicants right to prosecute any cancelled subject matter in a timely filed continuation application.

Applicants believe the application is in condition for allowance, which action is respectfully requested.

Application No. 10/506,729
Amendment Dated 07/21/2006
Reply to Office Action of 03/30/2006

A petition for a 1 month extension of time is being filed herewith, the Commissioner is hereby authorized to charge any deficiency in the fees or credit any overpayment to deposit account No. 50-3231, referencing Attorney Docket No. 100664-1P US.

Although Applicants believe no excess claim fees are due, the Commissioner is hereby authorized to charge any deficiency in the fees or credit any overpayment to deposit account No. 50-3231, referencing Attorney Docket No. 100664-1P US.

Respectfully submitted,

/Lucy Padget/

Name: Lucy Padget
Dated: 07/21/2006
Reg. No.: L0074
Phone No.: 781-839-4182
Global Intellectual Property, Patents,
AstraZeneca R&D Boston,
35, Gatehouse Drive,
Waltham,
MA 02451